MONTANA ADMINISTRATIVE REGISTER

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The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 17.8.1214 and 17.8.1224 pertaining to the Removal of Affirmative Defense Provisions in Title V permits and Administrative Rules	)))))	NOTICE OF PROPOSED AMENDMENT NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. The Department of Environmental Quality proposes to amend the above-stated rules.

2. The Department of Environmental Quality will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Environmental Quality no later than 5:00 p.m. on November 1, 2024, to advise us of the nature of the accommodation that you need. Please contact the Department of Environmental Quality at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMAR17-450@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

17.8.1214 REQUIREMENTS FOR AIR QUALITY OPERATING PERMIT CONTENT RELATING TO THE PERMIT SHIELD AND EMERGENCIES

(1) through (4) remain the same.

~~(5) An emergency constitutes an affirmative defense to an action brought for noncompliance with a technology-based emission limitation if the conditions of (6) and (7) are met.~~

~~(6) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~

~~(a) an emergency occurred and that the permittee can identify the cause(s) of the emergency;~~

~~(b) the permitted facility was at the time being properly operated;~~

~~(c) during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and~~

~~(d) the permittee submitted notice of the emergency to the department within two working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirements of ARM 17.8.1212(3)(c). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~

~~(7) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~

~~(8) The provisions in (5) through (7) are in addition to any emergency, malfunction or upset provision contained in any applicable requirement.~~

AUTH: 75-2-217, 75-2-218, MCA
IMP: 75-2-217, 75-2-218, MCA

REASON: On July 12, 2023, the Environmental Protection Agency (EPA) removed emergency affirmative defense provisions from the Clean Air Act operating permit program (Title V) by striking 40 CFR 70.6(g). To comply with EPA's final rule found in the Federal Register, *see* 88 Fed. Reg. 47,029–54 (July 21, 2023), Montana must amend ARM 17.8.1214 by striking (5) through (8) and amend ARM 17.8.1224 to delete a reference to ARM 17.8.1214(5). Montana has requested an extension to August 21, 2025, to accommodate our rulemaking and state implementation plan revision processes.

17.8.1224 ADDITIONAL REQUIREMENTS FOR OPERATIONAL FLEXIBILITY AND AIR QUALITY OPERATING PERMIT CHANGES THAT DO NOT REQUIRE REVISIONS (1) through (5) remain the same.

(6) The permit shield authorized by ARM 17.8.1214 shall not apply to changes made pursuant to (3) ~~and (5)~~, but is applicable to terms and conditions that allow for increases and decreases in emissions pursuant to (4).

(7) remains the same.

AUTH: 75-2-217, MCA
IMP: 75-2-217, 75-2-218, MCA

REASON: The department is proposing amending ARM 17.8.1224(6) because of the amendments to ARM 17.8.1214.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the Department of Environmental Quality at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMAR17-450@mt.gov, and must be received no later than 5:00 p.m., November 15, 2024.

5. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the department at the above address no later than 5:00 p.m., November 7, 2024.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative

Register. Ten percent of those directly affected has been determined to be 80 persons based on the approximately 800 persons on the interested persons list for air quality matters that is maintained by the department. Because 25 persons is fewer than 80, the department will hold a hearing if it receives hearing requests from at least 25 persons.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person in paragraph 2 or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at rules.mt.gov.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ *Jonathan Morgan*
JONATHAN MORGAN
Rule Reviewer

/s/ *Sonja Nowakowski*
SONJA NOWAKOWSKI
Director
Department of Environmental Quality

Certified to the Secretary of State October 8, 2024.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 42.20.681 pertaining to agricultural commodity prices and values	)))))	NOTICE OF PROPOSED AMENDMENT NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. The Department of Revenue proposes to amend the above-stated rule.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later 5:00 p.m., October 25, 2024, to advise us of the nature of the accommodation you need. Please contact Kassie Hawbaker, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-0365; fax (406) 444-3696; or e-mail kassie.hawbaker@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

42.20.681 AGRICULTURAL COMMODITY PRICES AND VALUES

(1) Commodity prices for the ~~2023-2024~~ 2025-2026 appraisal cycle used for the determination of income are calculated using a 10-year Olympic average of prices from Montana Agricultural Statistics for the years ~~2012-2021~~ 2014-2023. The department's Olympic average removes the highest price and the lowest price and averages the remaining eight prices. The commodity prices used for valuing agricultural land for the ~~2023-2024~~ 2025-2026 appraisal cycle are as follows:

(a) Spring wheat price used in the valuation of non-irrigated summer fallow and non-irrigated continuous cropped farm lands is ~~$5.96~~ $6.11 per bushel.

(b) Alfalfa hay price, reduced by 20 percent as required by 15-7-201, MCA, used in the valuation of irrigated and non-irrigated hay lands is ~~$111.30~~ $124.20 per ton.

(c) Private grazing fees used in the valuation of grazing lands is ~~$23.50~~ $24.69 per Animal Unit Month (AUM).

(2) The minimum value of irrigated land as determined by the methodology detailed in ARM 42.20.675 is ~~$535.47~~ $501.21 per acre.

(3) The statewide grazing productivity average is ~~.20~~ .21 AUMs per acre, and is used in calculating the values of:

(a) nonqualified agricultural lands; and

(b) nonproductive patented mining claims.

(4) For the ~~2023-2024~~ 2025-2026 appraisal cycle the capitalization rate for Class 3 agricultural land, which is used to convert an ongoing income stream into an

estimate of value is 6.4 percent.

(5) For the ~~2023-2024~~ 2025-2026 appraisal cycle the highest productivity of non-irrigated continuously cropped farmland is 60 bushels per acre, and is used in calculating the values of specialty crop land.

(6) For the ~~2023-2024~~ 2025-2026 appraisal cycle, the value of the one acre beneath a residence on agricultural land is ~~$2,003~~ $2,326.

(7) For the ~~2023-2024~~ 2025-2026 appraisal cycle, the minimum carrying capacity for grazing land to be eligible for agricultural classification is ~~25~~ 22 AUMs as determined by the Montana State University - Bozeman, College of Agriculture, in accordance with ARM 42.20.620.

AUTH: 15-1-201, MCA
IMP: 15-6-133, 15-7-201, 15-7-202, 15-7-206, 15-7-210, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.20.681 to update the years, prices, and values for the upcoming reappraisal cycle that begins January 1, 2025. The department's use of the Montana Agricultural Statistics as its data source is required by 15-7-201, MCA.

Proposed amendments are necessary in (1)(a) through (c) to update current commodity prices and production data for the base period; in (2) to update the minimum value of irrigated land based on the new commodity price; in (3) to update statewide grazing productivity average; in (4) and (5) to update base period references; in (6) to update the value of the one acre beneath a residence on agricultural land; and in (7) to update the minimum carrying capacity of an animal unit month (AUM) for grazing land to qualify as agricultural land for the upcoming reappraisal cycle.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Kassie Hawbaker, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-0365; fax (406) 444-3696; or e-mail kassie.hawbaker@mt.gov and must be received no later than 5:00 p.m., November 18, 2024.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kassie Hawbaker, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-0365; fax (406) 444-3696; or e-mail kassie.hawbaker@mt.gov and must be received no later than 5:00 p.m., November 18, 2024.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative

Register. The department estimates the number of those directly affected by this rulemaking action to be 79,000. The number of hearing requests necessary for the department to conduct a public hearing shall be 25, which is less than 10 percent of the number of persons affected.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, email, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a different mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 4 or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this notice is available through the Secretary of State's web site at rules.mt.gov.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

11. The department intends to adopt the above-described rule amendments during the fourth quarter of 2024, with an effective date of January 1, 2025. With regard to the requirements of 2-4-305(11), MCA, this rulemaking meets one or more of the exceptions provided in (11)(b)(ii) because the commodities data that the department receives from the United States Department of Agriculture National Agricultural Statistics Service, which is used to update the commodity prices and values in the rule, is unavailable until the third calendar quarter of any year.

/s/ Todd Olson	/s/ Brendan Beatty
Todd Olson	Brendan Beatty
Rule Reviewer	Director of Revenue

Certified to the Secretary of State October 8, 2024.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEES

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee

- Department of Agriculture
- Department of Commerce
- Department of Labor and Industry
- Department of Livestock
- Office of the State Auditor (Commissioner of Securities and Insurance)
- Office of Economic Development
- Division of Banking and Financial Institutions
- Alcoholic Beverage Control Division
- Cannabis Control Division

Education Interim Committee

- State Board of Education
- Board of Public Education
- Board of Regents of Higher Education
- Office of Public Instruction
- Montana Historical Society
- Montana State Library

Children, Families, Health, and Human Services Interim Committee

- Department of Public Health and Human Services

Law and Justice Interim Committee

- Department of Corrections
- Department of Justice

Energy and Telecommunications Interim Committee

- Department of Public Service Regulation

Revenue Interim Committee

- Department of Revenue
- Montana Tax Appeal Board

State Administration and Veterans' Affairs Interim Committee

- Department of Administration
- Montana Public Employee Retirement Administration
- Board of Investments
- Department of Military Affairs
- Office of the Secretary of State
- Office of the Commissioner of Political Practices

Transportation Interim Committee

- Department of Transportation
- Motor Vehicle Division (Department of Justice)

Environmental Quality Council

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

Water Policy Interim Committee (where the primary concern is the quality or quantity of water)

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. This list includes notices in which those rules adopted during the period April 12 through September 20, 2024, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This list does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2024, this list, and the table of contents of this issue of the Register.

This list indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2024 Montana Administrative Register.

To aid the user, this list includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in September 2024 appear. Potential vacancies from November 1, 2024 through November 30, 2024, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of October 1, 2024.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2024

Appointee	Appointed By	Succeeds	Appointment/End Date
Board of Pharmacy			
Mr. Paul Brand Florence Qualifications (if required): Licensed Pharmacist	Governor	Reappointed	9/23/2024 7/1/2028
Ms. Michelle Case Billings Qualifications (if required): Registered Pharmacy Technician	Governor	Bahny	9/23/2024 7/1/2027
Mr. Thomas Tinsen Great Falls Qualifications (if required): Licensed Pharmacist	Governor	Blank	9/23/2024 7/1/2026
Board of Water Well Contractors			
Mr. Doug Askin Miles City Qualifications (if required): Water Well Contractor	Governor	Reappointed	9/9/2024 7/1/2027
Mr. Dan O'Keefe Butte Qualifications (if required): Water Well Contractor	Governor	Reappointed	9/9/2024 7/1/2027

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2024

Appointee	Appointed By	Succeeds	Appointment/End Date
Future Fisheries Review Panel			
Mr. William Mytton	Governor	Reappointed	9/23/2024
Absarokee			7/1/2026
Qualifications (if required): Expertise in Commercial Agriculture			
Mr. Robert Schroeder	Governor	Reappointed	9/23/2024
Florence			7/1/2026
Qualifications (if required): Expertise in Irrigated Agriculture			
Ms. Nancy Winslow	Governor	Reappointed	9/23/2024
Missoula			7/1/2026
Qualifications (if required): Expertise in Mining Reclamation Techniques			
Geospatial Information Advisory Council			
Mr. Allen J. Armstrong	Governor	Reappointed	9/16/2024
Billings			7/1/2026
Qualifications (if required): Employed by U.S. Department of the Interior (BLM)			
Ms. Karen Coleman	Governor	Collins	9/16/2024
Helena			7/1/2027
Qualifications (if required): Department Director			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2024

Appointee	Appointed By	Succeeds	Appointment/End Date
Geospatial Information Advisory Council Cont.			
Mr. Valentijn Hoff	Governor	Reappointed	9/16/2024
Missoula			7/1/2027
Qualifications (if required): MUS Representative			
Mr. Jonathan Lewis	Governor	Lauerman	9/16/2024
Missoula			7/1/2026
Qualifications (if required): Active in land information systems/public utilities or private businesses			
Tourism Advisory Council			
Ms. Brooke Erb	Governor	Johnson	9/24/2024
Dillon			7/1/2027
Qualifications (if required): SW Montana Region Representative			
Mr. Nathan St. Goddard	Governor	Reappointed	9/24/2024
Browning			7/1/2027
Qualifications (if required): Tribal Member from Private Sector			

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2024 THROUGH NOVEMBER 30, 2024

Board/Current Position Holder	Appointed By	Term End
Montana Alfalfa Seed Committee		
Mr. Dallas Steiger, Hysham	Governor	11/30/2024
Qualifications (if required): Actively engaged in the growing of alfalfa seed		
Mr. Justin Weise, Malta	Governor	11/30/2024
Qualifications (if required): Actively engaged in growing alfalfa seed in state		
Statewide Independent Living Council		
Mr. Richard S. Williamson, Ronan	Governor	11/30/2024
Qualifications (if required): Person with a disability employed by a state agency		
Ms. June Hermanson, Helena	Governor	11/30/2024
Qualifications (if required): Person with a disability		
Mr. Brent Allen Morris, Billings	Governor	11/30/2024
Qualifications (if required): Person with disability not employed by a state agency or Center for Independent Living		
Mr. Joel Peden, Helena	Governor	11/30/2024
Qualifications (if required): Person with disability employed by a state agency or Center for Independent Living		
Ms. Allyson Talaska, Missoula	Governor	11/30/2024
Qualifications (if required): Vocational rehabilitation representative and agency representative		
Ms. Molly Kimmel, Missoula	Governor	11/30/2024
Qualifications (if required): Designated State unit representative, Ex Officio		

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2024 THROUGH NOVEMBER 30, 2024

Board/Current Position Holder	Appointed By	Term End
Statewide Independent Living Council Cont.		
Mr. Michael Mandhardt, Missoula	Governor	11/30/2024
Qualifications (if required): Person with disability not employed by a state agency or Center for Independent Living		
Ms. Jean Schroeder, Vaughn	Governor	11/30/2024
Qualifications (if required): Member at Large		
Ms. Emma Hixon, Missoula	Governor	11/30/2024
Qualifications (if required): Personal with disability not employed by a state agency		
Mr. Tom Thompson, Missoula	Governor	11/30/2024
Qualifications (if required): Person with disability employed by a state agency or Center for Independent Living		
Ms. Julie Williams, Livingston	Governor	11/30/2024
Qualifications (if required): State agency providing services for individual with disabilities		
Trauma Care Committee		
Dr. John Bradley Pickhardt, Missoula	Governor	11/1/2024
Qualifications (if required): Western Region Trauma Advisory Council		
Mr. Christopher Benton, Red Lodge	Governor	11/1/2024
Qualifications (if required): Central Region Trauma Advisory Council		
Ms. Brenda Koessl, Glasgow	Governor	11/1/2024
Qualifications (if required): Montana Hospital Association Representative		

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2024 THROUGH NOVEMBER 30, 2024

Board/Current Position Holder	Appointed By	Term End
Trauma Care Committee Cont.		
Ms. Lauri Jackson, Great Falls	Governor	11/1/2024
Qualifications (if required): Central Region Trauma Advisory Council		
Mr. Lanny Orr, Laurel	Governor	11/1/2024
Qualifications (if required): Eastern Region Trauma Advisory Council		
Dr. Tiffany Kniepkamp, Helena	Governor	11/1/2024
Qualifications (if required): Representative of the Montana Medical Association		
Ms. Camille Ratzburg, Shelby	Governor	11/1/2024
Qualifications (if required): Member of the Montana Trauma Coordinators		

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